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Page 1

THE NATURE OF ORGANIZED COOPERATION (Continued)

It need hardly be emphasized that sound business management is as essential to a cooperative as it is to any other business enterprise. The lines of responsibility must therefore be clearly established. While the members own and control their cooperative business, they would be bound to make a mess of it if they undertook to manage it themselves as a body.

It is the members' responsibility to establish and approve general policies, to elect a capable board of directors or trustees from among the members, to patronize their cooperative enterprise to the best of their ability and to encourage their neighbors to become members and patrons of the cooperative, to insist on being kept informed by the board and management of the progress and the special problems of the cooperative, to require from the board a full accounting of its performance of the trust functions with which the members have invested it and to pass judgment on the way in which the board has exercised (or perhaps has failed to exercise) the powers delegated to it.

The members should also strive constantly to increase their own knowledge of cooperation and of their cooperative business in particular, so that they will be able to exercise their own powers of con-

trol intelligently and for the good of the cooperative. Finally, the members should be ready to volunteer their services whenever the board or management invites their assistance in carrying forward special activities of benefit to the cooperative.

Cooperation means mutual self-help. Whatever the members can do themselves should not have to be done by hired employees. This is one important way of reducing expenses and operating costs which will, in turn, lower the cash cost of service to the members.

The board of directors or trustees is charged with the responsibility for management and with the formulation of specific policies and regulations needed to effectuate the purposes of the enterprise and the general policies agreed upon by the members. It is at all times subject to control by the membership from which it has received its authority. It is not the function of the board or of any individual director or trustee to try to manage the cooperative enterprise. The board is essentially a supervisory body which hires the manager and sees to it that management is made effective and operates economically.

The officers of the board, who are also the officers of the cooperative, are elected by and from the board. Each elected officer is vested with specific official responsibilities which are outlined in the bylaws of the cooperative. Except for these special functions, he has no power to act singly on behalf of the cooperative, unless he has received

specific instructions from the board as a whole.

Besides supervising the management, the board has the responsibility of initiating and guiding all kinds of membership activities. The board not only plans and conducts the business meetings of the membership (such as annual meetings), but is expected to assume the leadership in the development of educational and recreational activities designed to build up an informed and loyal membership. This is essential to the success of any cooperative enterprise. It is best accomplished through the setting up of a committee structure which is headed up in the board but reaches down into the rank and file of the membership. The principal committees in an REA cooperative deal with member enrollment, education, utilization, safety, publicity and public relations.

The manager, who is hired by and directly responsible to the board, is charged with the actual management of the cooperative enterprise. Any additional employees are hired by him, with the approval of the board, and take their orders from him, not from the board. However, the manager and his staff must realize that they are in the employ of all of the people whom the enterprise serves and that it is their duty to operate the enterprise in the interest and to the satisfaction of these user-members. Therefore, employees should not only cultivate a cooperative attitude but should actually acquaint themselves with the fundamentals of cooperation and should do everything in their power to make the enterprise successful in its cooperative aspects as well as from a strict business standpoint.

This means that ordinary members, directors and paid employees,

being jointly concerned in building an effective enterprise, must loyally work together in educating themselves and one another toward a full understanding of the principles and methods by which cooperative enterprise can be made most effective. While such understanding cannot be gained without personal efforts on the part of all concerned, wise boards and managers have learned by experience that their task becomes easier, the more actively and intelligently the membership learns to participate in the affairs of the cooperative.

An attorney who undertakes to act as legal counsel to an REA cooperative owes it to his client to acquaint himself with the special nature of cooperative enterprise, so that his legal advice will, as far as possible, support and strengthen rather than confuse and weaken the cooperative objective and its attainment.

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REA Cooperative Consultant

REVIEWING THE LAW REVIEWS

Violation of Building Restriction by Eminent Domain - Note (1940) 38 Mich. L. Rev. 351.

Recent case (1940) 38 Mich. L. Rev. 406 discussing the problem of limiting the voting rights of members of non-profit corporations.

Doying, Restricting Markets for Federal Power (1940) 25 Pub. Util. Fortnightly 67. This constitutes a review of federal activities in the field of electric power.

Naylor, Legal Basis for Recovery of Loans Made by Government Agencies (1940) 26 Va. L. Rev. 302.

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Address suggestions and contributions to the Editorial Office, REA, Room 203, 1518 "K" Street, Washington, D. C.

RECENT CASES

Condemnation - Extent of Damages Recoverable from Condemnation of Right of Way for Electric Lines, Poles, Etc., of Cooperative.

Several REA Cooperatives desired rights of way over the property of certain individuals for the purpose of erecting and maintaining electric lines, poles, wires, etc. Upon refusal by the landowners to grant such easements, the cooperatives instituted condemnation proceedings. The Board of Viewers, appointed by the Common Pleas Court to determine the amount of damages, if any, which should be awarded to the landowners, ruled in each case that the benefits received by the landowners far outweighed any disadvantages which might accrue. A typical conclusion was the following: "Taking into consideration the advantages to be derived from the location of the elec-

tric transmission line and said farm and near to and accessible to the buildings thereon, as well as the disadvantages from the location of said poles and transmission lines, we believe that the advantages far outweigh any disadvantages to said farm by reason of the erection and maintaining of the said transmission line. Therefore, we are of the opinion that no damages should be awarded and therefore do award none."

Petition of Tri-County Rural Electric Cooperative, Inc., for condemnation of right of way across lands of Jacob Trimmer, Pa. Comm. Pl. Tioga County, August Term, 1939, No. 4; Petition of Claverack Electric Cooperative, Inc. for condemnation of right of way across lands of Lulu Humphrey Shay, Pa. Comm. Pl. Bradford County, September Term, 1939, No. 220.

Municipalities - Competitive Bidding.

City desired to build its own electric light system. Pursuant to statute requiring competitive bidding it gave notice to bidders that they were invited to bid upon a contract having the following specifications: The contractor would accept the bonds of the city; the contractor would bid on a basis of doing all of the work and furnishing all of the material for the project; finally, the contractor would advance \$8,000 in cash to the town to cover engineering, legal, etc., expenses. A power company and two taxpayers brought a suit in equity to enjoin the town and the successful bidder from constructing the system. The theory of the plaintiffs was that the specifications for bidders were so limiting, exacting and stringent that many normal bidders were thereby excluded, rendering the proceedings invalid because of absence of competitive bidding. Held, injunction granted. Weiss v. Incorporated Town of Woodbine,

289 N. W. 469 (Iowa, 1940). The court points out that while specifications within a bid always tend to limit the number of bidders, yet specifications are permissible and desirable. However, the court feels that the present specifications exceeded normal bounds and tended to create a monopoly.

Rates - Discrimination.

Complainant filed a bill with the Pennsylvania Public Utility Commission objecting that the defendant utility charged the complainant a higher rate than was charged to a rural electric cooperative association. Held, since there were many factors differentiating the two cases no discrimination had been demonstrated. Carpenter v. Pennsylvania Electric Co., 31 P.U.R. (N.S.) 167 (1939). The Commission pointed out that in this particular case the cooperative had been required to furnish transforming equipment in order to serve its members while delivery to customers such as the complainant had been made directly by the company. The Commission further pointed out that the class of consumers served by the company are dissimilar to the class of consumers of the cooperative association and that identical rates to both classes are not necessary.

ADMINISTRATIVE INTERPRETATIONS

Alabama - Attorney General Rules Mortgages Given to Instrumentalities of United States Government Not Subject to Filing Tax.

The Attorney General ruled that Ala. Laws 1939, p. 95, making federal property taxable, does not subject deeds, mortgages, etc., given to instrumentalities or agencies of the United States, to a filing tax, on the ground that unless Congress has given its assent or consent to taxation by the States, the State of

Alabama is without constitutional authority to impose such a tax. Op. Atty. Gen., Ala., November 10, 1939, Prentice-Hall, St. & Loc. Tax Serv. Ala., para. 35,958, December 12, 1939.

Minnesota - Attorney General Rules REA Cooperatives Not Subject to Minnesota Securities Act.

The Attorney General stated, in discussing the exemption of various cooperative organizations from the jurisdiction of the Securities Division of the Department of Commerce, that, "By virtue of Laws 1939, Chapter 275, the operation of rural electric distribution systems is also exempted from the operations of the securities act." Op. Atty. Gen., Minn., October 10, 1939, CCH Stocks and Bonds Law Service, Minn. para. 7770, December 15, 1939.

Mississippi - Rural Electrification Cooperatives held subject to motor vehicle privilege tax.

Op. Atty. Gen., Oct. 10, 1939, St. & Loc. Tax Serv. Feb. 20, 1940, Mississippi, para. 44,194.

LEGAL MEMORANDA RECEIVED IN DECEMBER

- A-138 Change in Pennsylvania Procedure for Authorization of Increase of Cooperative's Limit of Indebtedness.
- A-145 Satisfaction of Texas Requirements by Oklahoma Acknowledgment.

RECENT ADDITIONS TO LAW LIBRARY

Jones, Evidence (4th Ed. 1938) 3 Vols.

Tiffany, Real Property (3rd Ed. 1939) 6 Vols.

Harper, Torts (1933).

Martindale - Hubbel, Law Digest and Lawyers (1940) 2 Vols.

1939 Pocket Parts to U. S. Code Annotated.

1939 Pocket Parts for Massachusetts.

Louisiana 1939 Pocket Parts for:

Code of Practice

Civil Code

Code of Criminal Procedure
and Criminal Statutes
Constitutions

Indiana Dec. 1939 Pocket Parts.

U.S.C.A. - Feb. 1940 Pamphlet directly supplementing 1939 Pocket Parts.

LEGAL MEMORANDA RECEIVED IN DECEMBER

A-121 Supplement to memorandum entitled "Necessity for Use of 'Warning' or 'Danger' signs on REA Projects".

A-43 Privileged Character of Communications from Cooperative to Its Members Respecting Quality and Performance of Specific Electric Appliances.

A-138 Change in Pennsylvania Proce-

dures for Authorization of Increase of Cooperative's Limit of Indebtedness.

A-140 Validity of Bylaw Provision Stating that Presence in Person or by Proxy of Members Entitled to Vote Shall Constitute a Quorum.

A-141a Inability of Minority Members of Pennsylvania Cooperative to Enjoin Sale By Cooperative of Part of System, If Sale Has Been Duly Authorized.

A-142 Mortgages of Stock in Trade.

A-144 New York Rule Invalidating Entire Mortgage Instrument Containing Invalid Stock in Trade Provisions.

A-145 Satisfaction of Texas Requirements by Oklahoma Acknowledgment.

A-147 Procedure With Respect to REA Approval of Service to Persons Now Receiving Service, Including Purchases of Existing Facilities.

TAX MEMORANDA

It should be noted that the following tax digests are part of a series covering the 48 states and are subject to modification upon final consideration and review:

Arizona Tax Digest
Connecticut Tax Digest
Delaware Tax Digest
Illinois Tax Digest

Louisiana Tax Digest
 Maine Tax Digest
 Massachusetts Tax Digest
 Minnesota Tax Digest
 New Hampshire Tax Digest
 New Mexico Tax Digest
 North Dakota Tax Digest
 Oklahoma Tax Digest
 Rhode Island Tax Digest
 South Carolina Tax Digest
 South Dakota Tax Digest
 Vermont Tax Digest
 West Virginia Tax Digest

T-203 Exemption of REA Cooperatives
 from North Dakota Sales Tax.

T-204 Application of Wyoming Selec-
 tive Sales Tax.

T-205 Arkansas Ad Valorem Taxes.

T-206 Exemption of Nevada Power
 Districts from State Property
 Taxes.

T-207 Ad Valorem Taxation--Capital-
 ization of Earnings.

T-208 License Fee and Privilege Tax
 Upon Tennessee Contractors.

T-209 Taxation of North Carolina
 Refrigerating Cooperatives
 Organized as Either Mutual
 Associations or Marketing
 Associations.

T-210 Exemption of REA Cooperatives
 from Minnesota Unemployment
 Tax.